



1700 PNC PLAZA
500 WEST JEFFERSON STREET
LOUISVILLE, KENTUCKY 40202-2874
(502) 582-1601
FAX (502) 581-9564
www.ogdenlaw.com

December 3, 2004

J. GREGORY CORNETT

DIRECT DIAL 502-560-4210
DIRECT FAX 502-627-8710

gcornett@ogdenlaw.com

RECEIVED FILE COPY
DEC 06 2004
PUBLIC SERVICE
COMMISSION

Richard Raff, Esq.
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

**RE: *Alleged Failure to Comply with Commission Regulations 807 KAR 5:006,
Section 25(4)(d) and 807 KAR 5:041, Section 3(1)
Case No. 2004-00232***

Dear Mr. Raff:

Enclosed please find the Stipulation and Settlement Agreement, previously amended by you, in the above-referenced matter. This copy has been executed on behalf of LG&E. Please have this executed on behalf of the Staff and presented to the Commission.

If you have any questions or concerns about this, please let me know. Thank you for your attention to this matter.

Yours very truly,

J. Gregory Cornett

JGC/ec

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

DEC 06 2004

In the Matter of:

PUBLIC SERVICE
COMMISSION

LOUISVILLE GAS AND ELECTRIC COMPANY)

CASE NO. 2004-00232

FAILURE TO COMPLY WITH COMMISSION)
REGULATIONS 807 KAR 5:006, SECTION)
25(4)(d) AND 807 KAR 5:041, SECTION 3(1))

STIPULATION OF FACTS AND SETTLEMENT AGREEMENT

By Order dated September 7, 2004, the Commission initiated this proceeding to determine whether Louisville Gas and Electric Company ("LG&E") should be subject to the penalties prescribed in KRS 278.990 for two probable violations of the Commission's Administrative Regulations: (1) 807 KAR 5:006, Section 25(4)(d), which requires a utility to inspect, at intervals not to exceed 2 years, electric lines operating at voltages of less than 69 Kv; and (2) 807 KAR 5:041, Section 3(1), which requires the maintenance of utility facilities to be in accordance with the National Electrical Safety Code, 2002 Edition ("NESC"). The portion of the NESC at issue with regard to (2) above is Section 23, Rule 232.B.1 and Table 232-1, which requires that there be a minimum vertical clearance of wires and conductors above ground in generally accessible places and roadway surfaces. The Commission's Order arose out of an incident which occurred on May 6, 2004 at the Rohm and Haas Chemical Company ("Rohm and Haas"), 4300 Campground Road, Louisville, Kentucky. A contractor working for Rohm and Haas was installing fiber optic communication lines. While

working outside in a non-insulated aerial lift truck, he contacted a 7,200 volt LG&E line, resulting in burns to his body and requiring two nights' hospitalization. One phase and the neutral of the LG&E line were below the minimum vertical clearances required by the NESC.

On September 23, 2004, LG&E filed a Response to the Commission's September 7, 2004 Order and denied any violation of the NESC or any regulation. An informal conference was held at the Commission's offices on October 15, 2004. As a result of discussions held during the conference, LG&E and the Commission Staff submit the following Stipulation of Facts and Settlement Agreement ("Stipulation") for the Commission's consideration in rendering its decision in this proceeding:

1. LG&E agrees that the Staff's Incident Investigation Report ("Report"), Appendix A to the Commission's September 7, 2004 Order in this case, accurately describes and sets forth the material facts and circumstances surrounding the incident giving rise to the Order.

2. LG&E has circulated a letter to its Operations Centers reminding them of the obligations in inspecting LG&E's facilities, including those facilities which are not easily accessible. A copy of that letter is attached to this Settlement Agreement as Exhibit 1.

3. LG&E agrees to pay a civil penalty in the amount of Two Thousand Five Hundred Dollars (\$2,500) in full settlement of this proceeding. The scope of this proceeding is limited by the Commission's September 7, 2004 Order to whether LG&E should be assessed penalties under KRS 278.990 for willful violations of Commission regulations, including NESC Rules. Neither the payment of the civil penalty, nor any

other agreement contained in this Stipulation, shall be construed as an admission by LG&E of a willful violation of any Commission regulation or NESC Rule, nor shall it be construed as an admission by LG&E of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, nor shall the Commission's acceptance of this Stipulation be construed as a finding of a willful violation of any Commission regulation or NESC Rule.

4. In the event that the Commission does not accept this Stipulation in its entirety, LG&E and Staff reserve their rights to withdraw therefrom and require that a hearing be held on any and all issues involved herein, and that none of the provisions contained herein shall be binding upon the parties hereto, used as an admission by LG&E of any liability in any legal proceeding or lawsuit arising out of the facts set forth in the Report, or otherwise used as an admission by either party.

5. This Stipulation is for use in Commission Case No. 2004-00232, and neither party hereto shall be bound by any part of this Stipulation in any other proceeding, except that this Stipulation may be used in any proceeding by the Commission to enforce the terms of this Stipulation or to conduct a further investigation of LG&E's service, and LG&E shall not be precluded or estopped from raising any issue, claim, or defense therein by reason of the execution of this Stipulation.

6. LG&E and Staff agree that the foregoing Stipulation is reasonable, is in the public interest, and should be adopted in its entirety by the Commission. If so adopted by the Commission, LG&E agrees to waive its right to a hearing and will not file any petition for rehearing or seek judicial appeal.

Dated this 2nd day of ^{December} ~~November~~, 2004.
JD

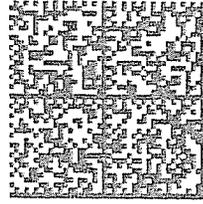
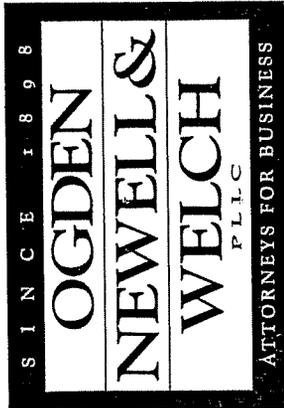
LOUISVILLE GAS AND ELECTRIC COMPANY

By: *Jim Dimas*

Title Jim Dimas, Senior Corporate Attorney

STAFF OF THE PUBLIC SERVICE
COMMISSION OF KENTUCKY

BY: _____
Richard G. Raff, Staff Attorney



UNITED STATES POSTAGE
02 1A \$ 1
0004354606 DE
MAILED FROM ZIPC

RECEIVED
DEC 06 2006
PUBLIC SERVICE
COMMISSION

Richard Raff, Esq.
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40601

40601+8294 13

